



**6712-01**

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 54**

**[WC Docket Nos. 18-143, 10-90, 14-58; DA 20-133; FRS 16538]**

**The Uniendo a Puerto Rico Fund and the Connect USVI Fund, Connect America Fund, ETC**

**Annual Reports and Certifications**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final action; requirements and procedures.

**SUMMARY:** In this document, the Wireline Competition Bureau (the Bureau) establishes procedures for the Uniendo a Puerto Rico Fund and the Connect USVI Fund Stage 2 Competition (PR-USVI Stage 2 Competition, Stage 2 Competition, or the Competition).

**DATES:** The PR - USVI Stage 2 Competition applications will not be due earlier than 30 days following the announcement of the application form's approval from the Office of Management and Budget. The Bureau will release a public notice announcing the application deadline.

**FOR FURTHER INFORMATION CONTACT:** Alexander Minard, Wireline Competition Bureau, (202) 418-7400 or TTY: (202) 418-0484.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Bureau's Public Notice in WC Docket Nos. 18-143, 10-90, 14-58; DA 20-133, released on February 5, 2020. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY-A257, 445 12<sup>th</sup> Street SW, Washington, DC 20554 or at the following Internet address: <https://www.fcc.gov/document/uniendo-puerto-rico-fund-and-connect-usvi-fund-procedures-pn>.

**I. GENERAL INFORMATION**

**A. Introduction**

1. The Bureau established procedures for the PR-USVI Stage 2 Competition, thus furthering the Commission's goal of closing the digital divide for all Americans, including those in non-contiguous areas of our country. The Stage 2 Competition will award up to \$691.2 million annually for 10 years to service providers that commit to offer voice and broadband services to all fixed locations in the

Commonwealth of Puerto Rico and the U.S. Virgin Islands (USVI) (together, the “Territories”). The Bureau will release an application form and instructions, and announce the application deadline in a public notice following Paperwork Reduction Act approval from the Office of Management and Budget.

**B. Requirements for Participation**

2. Those wishing to participate in this competition must:
  - Submit an application form for Stage 2 of the Uniendo a Puerto Rico Fund or the Connect USVI Fund (Application Form) via electronic mail to [ConnectAmerica@fcc.gov](mailto:ConnectAmerica@fcc.gov) prior to the application deadline; and
  - Comply with all provisions outlined in this Public Notice and applicable Commission rules.

**C. Public Interest Obligations**

3. Each winning applicant that is authorized to receive Stage 2 fixed support will be required to offer voice and broadband services meeting the relevant performance requirements to fixed locations. It must make these services available to all fixed locations associated with the geographic area for which it is the winning applicant.

4. In the competition, the Bureau will accept applications for service at one of three performance levels, each with its own minimum download and upload speed and usage allowance, and for either high or low latency service, as shown in the tables herein. Winning applicants that become authorized to receive Stage 2 fixed support must deploy broadband service that meets the performance speed, usage and latency requirements associated with their winning applications. The performance requirements for authorized winning applicants are described in more detail in the following tables and in the *PR-USVI Stage 2 Order*.

<b>Speed</b>	<b>Monthly Usage Allowance</b>	<b>Assigned Points</b>
$\geq 25/3$ Mbps	$\geq 250$ GB or U.S. median, whichever is higher	50
$\geq 100/20$ Mbps	$\geq 2$ TB	25
1 Gbps/500 Mbps	$\geq 2$ TB	0

<b>Latency</b>	<b>Requirement</b>	<b>Assigned Points</b>
Low	$\leq 100$ ms	0
High	$\leq 750$ ms	40

5. Stage 2 support recipients may offer a variety of broadband service offerings as long as they offer at least one standalone voice plan and one service plan that provides broadband at the relevant performance tier and latency requirements, and these plans must be offered at rates that are reasonably comparable to rates offered in urban areas. For voice service, a support recipient will be required to certify annually that the pricing of its service is no more than the applicable reasonably comparable rate benchmark that the Bureau releases each year. For broadband services, a support recipient will be required to certify that the pricing of a service that meets the required performance tier and latency performance requirements is no more than the applicable reasonably comparable rate benchmark, or that it is no more than the non-promotional price charged for a comparable fixed wireline broadband service in the state or U.S. territory where the eligible telecommunication carrier (ETC) receives support.

6. The Commission has adopted specific service deployment milestones that require each winning applicant authorized to receive Stage 2 support to offer service to all locations associated with the geographic area included in its authorized winning application. Specifically, each support recipient must complete construction and begin commercially offering service to at least 40% of the locations in an area by the end of the third year of support, to at least 60% by the end of the fourth year, at least 80% and by the end of the fifth year, and to 100% by the end of the sixth year. A support recipient is deemed to be

commercially offering voice and/or broadband service to a location if it provides service to the location or could provide it within 10 business days upon request.

7. Compliance will be determined by geographic area. The Bureau will verify that the support recipient offers the required service to the total number of locations across all winning areas included in the support recipient's authorized application areas (i.e., municipios or island(s)). If a support recipient is authorized to receive support in an area for different performance tier/latency and resiliency/redundancy combinations, it will be required to demonstrate that it is offering service meeting the relevant performance requirements to the required number of locations throughout each geographic area for each such combination within the application.

8. The Commission established a one-year location adjustment process, as described more completely in the *PR-USVI Stage 2 Order* and in the following. In the event a support recipient cannot identify all locations in its winning geographic areas, it will have one year from release of the Stage 2 Competition winning applicants public notice to file evidence of the total number of locations in those blocks, including geolocation data of all the locations it was able to identify. The support recipient's filing will be subject to review and comment by relevant stakeholders and to audit. If the support recipient demonstrates that the number of actual, on-the-ground locations is lower than the number announced by the Bureau on December 19, 2019, its location total will be adjusted, and its support will be reduced on a pro rata basis. If a support recipient finds that the number of actual locations has increased, its total support will not be increased, but it will be required to deploy to all actual locations.

9. Additionally, the Commission adopted a voluntary five-year assessment prior to the end of the fifth year of support, as described more completely in the *PR-USVI Stage 2 Order*. This process allows a support recipient that faces unforeseen challenges to request a review of and adjustment to its deployment obligations. As directed by the Commission, the Bureau will establish a process no later than the beginning of the fifth year of support to provide recipients an opportunity to request reassessment of their obligations. The support recipient's filing will be subject to review and public comment. If, based on the Bureau's review, an adjustment of deployment obligations or locations is warranted for any winning applicant, the Bureau will announce those changes in a public notice.

10. To monitor each support recipient's compliance with the Stage 2 public interest obligations, the Commission has adopted reporting requirements described in detail in the *PR-USVI Stage 2 Order*. These include reporting a list of geocoded locations each year to which the support recipient is offering the required voice and broadband services, making a certification when the support recipient has met service milestones, and submitting the annual FCC Form 481 report. A support recipient that fails to offer service to all locations by a service milestone will be subject to non-compliance measures. A support recipient will also be subject to any non-compliance measures that are adopted in conjunction with the uniform methodology applicable to high-cost support recipients for testing and reporting network performance.

## **II. APPLYING TO COMPETE IN THE STAGE 2 COMPETITION**

### **A. Competition Structure**

11. *Single-Round Competition Format.* As adopted in the *PR-USVI Stage 2 Order*, the Bureau will conduct the Stage 2 Competition using a single-round, confidential submission, objective scoring process. The Bureau will consider all eligible Stage 2 applications simultaneously and select applicants based on the lowest score for a series of weighted objective criteria. Applicants must commit to meeting the established minimum performance requirements identified in its application, and the scoring gives greater preference to proposals based on how much they exceed the minimum thresholds. The Bureau establishes the procedures in the following in order to implement a competition that is efficient, orderly, transparent, and impartial.

12. *Eligible Providers.* The Commission determined that it would allow all providers that had existing fixed network facilities and made broadband service available in Puerto Rico or in the U.S. Virgin Islands, according to June 2018 FCC Form 477 data, to be eligible to participate in their respective territory's competitive process. Therefore, for example, a provider that has deployed broadband in Puerto Rico but not the U.S. Virgin Islands according to June 2018 FCC Form 477 data would be eligible to apply for support throughout Puerto Rico, but not in the U.S. Virgin Islands. The Commission determined that it would allow broadband providers that, according to June 2018 FCC Form 477 data,

serve only business locations to participate. The Commission also allowed participation by fixed providers who rely on any technology, including satellite, that can meet the Stage 2 service requirements.

13. *Eligible Areas and Minimum Geographic Area.* All areas of the Territories are eligible for support. As the Commission determined in the *PR-USVI Stage 2 Order*, the Bureau will use the 78 municipios in Puerto Rico and create two areas in USVI—one that is composed of St. John and St. Thomas islands together and a second of just St. Croix island—as the geographic areas for which applicants may request support in the competition.

14. As directed by the Commission, the Bureau released a public notice listing the number of locations for each geographic area for the Stage 2 Competition in December 2019 based on the most recent census data (Reserve Price Notice). The Reserve Price Notice identifies the geographic areas eligible for Stage 2 fixed funding, and lists the municipio or island name, the number of locations in each area, and the reserve price.

15. Applicants must use the municipio as the minimum geographic area for applying for Stage 2 support in Puerto Rico. An applicant may apply for up to 78 geographic areas in an application to compete for Stage 2 fixed support in Puerto Rico. Applicants may apply for up to two geographic areas in an application to compete for Stage 2 support in the USVI.

16. *Reserve Prices.* The Bureau released the reserve prices for the Territories on December 19, 2019. The Bureau applied the three-step process adopted by the Commission to determine the reserve price for each minimum geographic area. First, the Bureau employed the Connect America Model (CAM) to calculate the average cost per location for all locations in a census block. Second, the Bureau applied the full amount of the budgets for Puerto Rico and for the U.S. Virgin Islands to create territory-specific high-cost thresholds and to ensure the entire budget is available over the 10-year term. Third, the Bureau established a reserve price for each geographic area in proportion to the support amounts calculated for each census block within that area. The reserve prices are \$25.58 per location per month for Puerto Rico and \$23.34 per location per month for USVI.

17. *Competition Delay or Suspension.* The Bureau may, by announcement, delay or suspend the competition in the event of natural disaster, technical obstacle, network disruption, evidence of an

competition security breach or unlawful application activity, administrative or weather necessity, or for any other reason that affects the fair and efficient conduct of the competitive proposal process. In such cases, the Bureau will resume the competition starting from the point at which the competition was suspended.

**B. Application Procedures**

18. *Application Overview.* The Stage 2 Competition will establish the amount of support that each winning applicant will be eligible to receive over the 10-year term. An applicant can submit an application that includes a proposal for each geographic area for which it seeks support. The price proposed for each geographic area represents the amount of support the applicant is willing to receive per location per month in a geographic area (Proposal Price). The Proposal Price will apply to all locations within a geographic area for which the applicant is seeking support. The Proposal Price must be at a price that is equal to or less than the reserve price established by the Bureau. An applicant may submit a different Proposal Price for each geographic area it proposes to serve in the territory. Each application represents an irrevocable offer to meet the terms of the application if it becomes a winning application. That is, an application indicates that the applicant, if selected, commits to provide service to all locations in the minimum geographic area(s) in which it is chosen as the winning applicant in accordance with its specified performance tier and latency requirements in exchange for Stage 2 support. An authorized winning applicant will receive support in amounts corresponding to the Proposal Price for each geographic area in which it is the winning applicant.

19. The application and scoring procedures described herein implement the Commission's decisions on the process for evaluating applications in the Stage 2 Competition.

20. *Required Application Form.* An applicant must timely and properly file an Application Form to be considered a participant in the Stage 2 Competition for support in the Territories. This form can be accessed at the FCC's website.

21. *Application Submission.* An application to participate in the Stage 2 Competition will provide information used to determine whether the applicant has the legal, technical, and financial qualifications to participate in a Commission competition for universal service support. An entity seeking

to participate in the competition must file an application in which it certifies, under penalty of perjury, its qualifications. Eligibility to participate in the Stage 2 Competition is based on an applicant's submission of required information, Application Form and certifications. A potential applicant must take seriously its duties and responsibilities and carefully determine before filing an application that it is able to meet the public interest obligations associated with Stage 2 support if it ultimately becomes a winning applicant in the competition. An applicant's selection as a winning applicant does not guarantee that the applicant will also be deemed qualified to receive Stage 2 support. Each winning applicant must file all required forms, information and certifications, which the Bureau will review to determine if a winning applicant should be authorized to receive support for its winning applications.

22. An entity seeking to participate in the Stage 2 Competition must file an application electronically via email at [ConnectAmerica@fcc.gov](mailto:ConnectAmerica@fcc.gov) by the deadline announced by the Bureau. Among other things, an applicant must submit operational and financial information demonstrating that it can meet the service requirements associated with the performance tier and latency combination(s) for which it submits an application. In the following, the Bureau describes more fully the information disclosures and certifications required in the application. An applicant is also subject to the Commission's rules prohibiting certain communications, as explained in the following, beginning on the date the window for filing applications opens. The Bureau will publish a notice announcing the window opening date and a notice announcing all parties that have successfully filed a Stage 2 Fixed application following the application deadline.

23. An applicant bears full responsibility for submitting an accurate, complete, and timely application. An applicant should consult the Commission's rules to ensure that, in addition to the materials described in the following, all required information is included in its application. To the extent the information in this Public Notice does not address an applicant's particular circumstances, or if the applicant needs additional information or guidance concerning the following disclosure requirements, the applicant should review the *PR-USVI Stage 2 Order* and the instructions for the Application Form and/or use the contact information provided in this Public Notice to consult with Commission staff to better understand the information it must submit in its application.



24. An applicant should note that submitting an application (and any amendments thereto) constitutes a representation by the certifying official that he or she is an authorized representative of the applicant, that he or she has read the form's instructions and certifications, and that the contents of the application, its certifications, and any attachments are true and correct. As more fully explained in the following, an applicant may not make major modifications to its application after the application filing deadline. Submitting a false certification to the Commission may result in penalties, including monetary forfeitures, the forfeiture of universal service support, license forfeitures, ineligibility to participate in future auctions, competitions, and/or criminal prosecution.

25. After the initial application filing deadline, Bureau staff will review all timely submitted applications to determine whether each application complies with the application requirements and has provided all required information concerning the applicant's qualifications. After this review is complete, Bureau staff may contact an applicant regarding minor application defects that may be corrected. Staff will establish a deadline for resubmitting modified applications. After any applications have been resubmitted, Bureau staff will complete review of all qualified applications, and the selected winners will be announced in a public notice.

26. *Acceptable Applications.* To submit an application for support to provide service to an area in the Stage 2 Competition, an applicant must specify the area, a performance tier and latency combination, a Proposal Price, resiliency and redundancy information that explains how the applicant is building in network or path diversity, and a Disaster Preparation and Response Plan. Several requirements, as set forth in the following, will also apply to application submission and the Bureau will advise applicants if an application does not meet these conditions.

27. Each applicant should submit a single application for each territory in which it seeks to provide qualifying voice and broadband services. The application should include all proposals for each geographic area within the territory for which the applicant seeks to provide service. To effectuate this direction from the Commission, the Bureau prohibits commonly controlled applicants from applying for the same geographic areas.

28. An applicant may submit the Proposal Price as a price point percentage of the reserve price for a geographic area. The price point percentage submitted in the application may be specified with up to two decimal places (e.g., 98.44%). The option to apply at intermediate price point percentages will allow an applicant to indicate more precisely the minimum amount of support it will accept for an area, and it reduces the likelihood of ties.

29. An application must specify a percentage that implies a support amount that is one percent or more of an area's reserve price to be acceptable. One percent represents a sufficiently small fraction of the model-derived reserve price to serve as a minimum acceptable application for applicants with legitimate support needs. An applicant that requires—or receives—no Stage 2 support to build out in an area is free to provide service in the area if it wishes, and furthermore, it can do so without the requirements imposed on Stage 2 support recipients.

30. *Modifying the Application Form.* As indicated in this document, an entity seeking to participate in the Stage 2 Competition must file an Application Form electronically via electronic mail to the Bureau at [ConnectAmerica@fcc.gov](mailto:ConnectAmerica@fcc.gov). During the filing window, an applicant will be allowed to make any necessary permissible modifications to its Application Form through resubmission via electronic mail to the Bureau. An applicant that has certified and submitted its Application Form before the close of the filing window may continue to make modifications as often as necessary until the application deadline; however, the applicant must re-certify and resubmit its Application Form before the close of the filing window to confirm and effect its latest application changes.

31. After the Application Form filing deadline, a Stage 2 Competition applicant will be permitted to make only minor changes to its application consistent with the Commission's rules. An applicant's ability to modify its Application Form will be limited between the closing of the filing window and the release of the public notice announcing the Stage 2 Competition winning applicants. During this period, an applicant will be permitted to modify only the applicant's address, responsible party address, and contact information (e.g., name, address, telephone number, etc.) via resubmission through electronic mail to the Bureau.

32. If an applicant needs to make other permissible minor changes to its Application Form, or changes to maintain the accuracy and completeness of its application pursuant to § 1.65 of the Commission's rules, the applicant must submit a letter briefly summarizing the changes to its Application Form via electronic mail to the Bureau at [ConnectAmerica@fcc.gov](mailto:ConnectAmerica@fcc.gov). The email summarizing the changes must include a subject line referring to the Stage 2 Competition and the name of the applicant, for example, "Re: Changes to the Stage 2 Competition Application of XYZ Corp." Any attachments to the email must be formatted as Adobe® Acrobat® (PDF) or Microsoft® Word documents.

33. An applicant will not be able to modify any other portions of the Application Form, and in particular an applicant may not, after the filing deadline, add a proposal for an area that it did not submit by the filing deadline or subtract a proposal from those areas that it submitted by the filing deadline. Major modifications to an Application Form (e.g., changes in ownership that would constitute an assignment or transfer of control of the applicant, change in applicant's legal classification that results in a change in control, change in the area(s) for which proposals are submitted) will not be permitted after the Application Form filing deadline. If an amendment reporting change is a "major modification," the major modification will not be accepted and may result in the dismissal of the application.

34. Pursuant to § 1.65 of the Commission's rules, each applicant has a continuing obligation to maintain the accuracy and completeness of information furnished in a pending application, including a pending application to participate in the Stage 2 Competition. Consistent with the requirements for the Commission's spectrum competitions, an applicant for the Stage 2 Competition must furnish additional or corrected information to the Commission within five business days after a significant occurrence, or amend its Application Form no more than five business days after the applicant becomes aware of the need for the amendment. An applicant is obligated to amend its pending application even if a reported change may result in the dismissal of the application because it is subsequently determined to be a major modification.

35. If, at any time, an applicant needs to make changes in order to maintain the accuracy and completeness of its application pursuant to § 1.65 of the Commission's rules, it must make the change(s)

by resubmitting its application with an email to the Bureau, which must include a re-certification to confirm and effect the change(s).

36. As with filing the Application Form, any amendment(s) to the application and related statements of fact must be certified by an authorized representative of the applicant with authority to bind the applicant. Applicants should note that submission of any such amendment or related statement of fact constitutes a representation by the person certifying that he or she is an authorized representative with such authority and that the contents of the amendment or statement of fact are true and correct.

37. Questions about Application Form amendments should be directed to the Telecommunications Access Policy Division, Wireline Competition Bureau at (202) 418-0660.

### **C. Application Requirements**

38. *Disclosure of Agreements.* An applicant must identify in its application all real parties in interest to any agreements relating to the participation of the applicant in the Stage 2 Competition. This disclosure requirement applies to any arrangements with parties that are applying to participate in the Stage 2 Competition as well as parties that are not. An applicant that discloses any such agreement(s) in its application must also provide a brief description of each agreement.

39. An applicant must certify under penalty of perjury in its application that it has disclosed all real parties in interest to any agreements involving the applicant's participation in the Stage 2 Competition. The Bureau requires an applicant to certify under penalty of perjury that it has not entered into any explicit or implicit agreements, arrangements, or understandings of any kind related to the support to be sought through the Stage 2 Competition, other than those disclosed in its application. For purposes of making the required agreement disclosures, if parties agree in principle on all material terms prior to the application filing deadline, each applicant should provide a brief description of, and identify the other party or parties to, the agreement on its respective Application Form, even if the agreement has not been reduced to writing. If an applicant has had discussions, but it has not reached an agreement by the close of the filing deadline, it should not include the matter on its application and may not continue such discussions with any applicants after the close of the filing window.

40. *Ownership Disclosure Requirements.* Each applicant must comply with the ownership disclosure requirements in §§ 1.2112(a) and 54.315(a)(1) of the Commission's rules. Specifically, in completing the application, an applicant must fully disclose information regarding the real party- or parties-in-interest in the applicant and the ownership structure of the applicant, including both direct and indirect ownership interests of 10% or more, as prescribed in § 1.2112(a) of the Commission's rules. Each applicant is responsible for ensuring that information submitted in its application is complete and accurate.

41. In certain circumstances, an applicant may have previously filed an FCC Form 602 ownership disclosure information report or filed a competition application for a previous competition in which ownership information was disclosed. Although an applicant might have filed this information using the same FRN, the applicant should resubmit that information in its Application Form. Each applicant must carefully review any ownership information contained in its Application Form, including any ownership attachments, to confirm that all information supplied on the Application Form is complete and accurate as of the application filing deadline for the Stage 2 Competition. An applicant should note if there are any changes to information recently submitted. Any information that needs to be corrected or updated must be changed in the Application Form.

42. *Specific Universal Service Certifications.* An applicant must certify that it is in compliance with all statutory and regulatory requirements for receiving Stage 2 universal service support. Alternatively, if expressly allowed by the rules specific to a high-cost support mechanism, an applicant may certify that it acknowledges that it must be in compliance with such requirements before being authorized to receive Stage 2 support.

43. In addition, the Bureau requires that an applicant must certify that it will make any default payment that may be required and that it is aware that if its application is shown to be defective, the application may be dismissed without further consideration and penalties may apply.

44. *Specific Stage 2 Eligibility Requirements and Certifications.* In the *PR-USVI Stage 2 Order*, the Commission established that an applicant must demonstrate its operational experience and

financial qualifications to participate in the Stage 2 Competition. Therefore, all applicants are required to provide the information described in the following in this section.

45. An applicant must certify on its Application Form that it has provided voice and/or broadband services since at least the time period required for filing the June 30, 2018 FCC Form 477. An applicant must specify the number of years it has been operating and identify the services it has provided. An applicant will be deemed to have started providing a service on the date it began commercially offering that service to end users.

46. An applicant must certify that it (or its parent company, if it is a wholly owned subsidiary) has filed FCC Form 477s as required during that time period. And it must identify the FRNs it (or its parent company) used to file the FCC Form 477s for the relevant filing periods. The relevant FCC Form 477 filing periods include data as of June 30, 2018; December 31, 2018; June 30, 2019; and December 31, 2019. The Bureau will use FCC Form 477 data for these periods to validate an applicant's representation on its application.

47. An applicant that intends to use wireless technologies to meet the relevant Stage 2 public interest obligations must demonstrate that it currently has sufficient access to spectrum – either licensed and unlicensed – for each performance combination it selects in each area. Specifically, in its application, an applicant must (i) identify the spectrum band(s) it will use for the last mile, backhaul, and any other parts of the network; (ii) describe the total amount of uplink and downlink bandwidth (in megahertz) that it has access to in each spectrum band for the last mile; (iii) describe the authorizations (including leases) it has obtained to operate in the spectrum, if applicable; and (iv) list the call signs and/or application file numbers associated with its spectrum authorizations, if applicable. An applicant that intends to provide service using satellite technology should describe its expected timing for applying for earth station license(s), and an applicant that intends to obtain microwave license(s) for backhaul should describe its expected timing for applying for microwave license(s) if these licenses have not already been obtained.

48. To the extent that an applicant will use licensed spectrum, it should provide details about how the licensed service area covers its winning application area(s) (e.g., provide a list of geographic areas that the spectrum license covers and describe how those areas relate to the application area(s)). In

the Public Notice, the Bureau identifies the spectrum bands that it anticipates could be used for the last mile to meet the performance obligations and indicate whether the spectrum bands are licensed or unlicensed. The Bureau would expect that a service provider operating in these bands could, at a minimum, offer service meeting the requirements for the minimum performance tier provided that the service provider is using sufficient bandwidth in the spectrum band(s) and a technology that can operate on these spectrum bands consistent with applicable U.S. and international rules and regulations. The Bureau notes that the spectrum chart in the Public Notice is a non-exhaustive list of spectrum bands that an applicant could potentially use to meet its performance obligations. An applicant is not precluded from proposing to use a spectrum band that is not included in Appendix A of the Public Notice, provided that the applicant can demonstrate that it is reasonably capable of meeting the performance requirements over the entire support term for the selected performance tier and latency combination(s) using that spectrum. The Bureau also notes that an applicant that selects a spectrum band listed in in the Public Notice for a particular performance tier and latency combination may not necessarily be deemed eligible for that combination.

49. An applicant must also certify that the description of the spectrum access is accurate and that it will retain such access for at least 10 years after the date on which it is authorized to receive Stage 2 fixed support. Applications will be reviewed to assess the reasonableness of the certification.

50. The Commission required all applicants to demonstrate sufficient financial qualifications to participate in the Stage 2 Competition in order to minimize the number of winning applicants that default because they are unable to meet their obligations. The Bureau staff will review and evaluate the financial information provided to assess the reasonableness of the applicant's financial qualifications. In support of its financial showing, an applicant may choose to submit its (or its parent company's) unaudited or audited financial statements from the prior fiscal year, including balance sheets, net income and cash flow, to support its application and financial certification. Staff may request further information from an application if there are questions about its qualifications. An applicant will ultimately be provided a pass or fail rating on its financial qualifications. If an applicant receives a failing score, its application will not be reviewed, and the applicant will be disqualified from competing in the Stage 2 Competition.

51. An applicant must certify in its application that it will have available funds for all project costs that exceed the amount of Stage 2 support to be received for the first two years of its support term. An applicant must also describe how the required construction will be funded in each territory. The description should include the estimated project costs for all facilities that are required to complete the project, including the costs of upgrading, replacing, or otherwise modifying existing facilities to expand coverage or meet performance requirements. The estimated costs must be broken down to indicate the costs associated with each proposed service area and must specify how Stage 2 support and other funds, if applicable, will be used to complete the project. The description must include financial projections demonstrating that the applicant can cover the necessary debt service payments over the life of any loans. The Bureau will treat all the information included with this submission as confidential and will withhold it from routine public inspection.

52. Each applicant must select in its application the performance tier (speed and usage) and latency combination(s) for which it intends to apply in each area where it seeks support. For each performance combination, an applicant must indicate the technology or technologies it intends to use to meet the associated requirements. The Bureau also requires an applicant to demonstrate its eligibility to apply for the performance tier and latency combination(s) it selects in its application. It is the Bureau's objective to safeguard consumers from situations where applicants unable to meet the specified service requirements divert support from applicants that can meet the public interest obligations.

53. An applicant must demonstrate that it is technically qualified to meet the relevant Stage 2 public interest obligations in its application areas by submitting technical information to support the operational assertions. An applicant must submit a detailed technology and system design description, including a network diagram that must be certified by a professional engineer. The professional engineer must certify that the network can deliver, to all locations in each geographic area, voice and broadband service that meets the requisite performance requirements.

54. *Initial Overview.* All applicants must submit with their application an overview of its intended technology and system design for each area in its application. The overview must describe at a high level how the applicant will meet its Stage 2 public interest obligations for the relevant performance



tier and latency combination(s) using Stage 2 support (e.g., building a new network or expanding an existing network, deploying new technology or existing technology). This overview should avoid highly technical terminology or jargon unless such language is integral to the understanding of the project. The overview will be made publicly available.

55. *Detailed Description.* All applicants must submit with their application, for each area, a more detailed description of its technology and system design that describes the network to be built or upgraded, demonstrates the project's feasibility, and includes the network diagram certified by a professional engineer. It must describe in detail a network that fully supports the delivery of consumer voice and broadband service that meets the requisite performance requirements to all locations in each area by the end of the six-year build-out period and for the duration of the 10-year support term. It also must contain sufficient detail to demonstrate that the applicant can meet the interim service milestones if it becomes authorized to receive support. If an applicant submits a technology and system design description that lacks sufficient detail to demonstrate that the applicant has the technical qualifications to meet the relevant Stage 2 obligations, the applicant will be asked to provide further details about its proposed network. The Bureau will treat all the information submitted as confidential and will withhold it from routine public inspection.

56. In the following, the Bureau provides guidance on how an applicant can successfully meet the requirement to provide a description of its technology and system design. Specifically, the Bureau describes the types of information it would expect an applicant to include, at a minimum, in a detailed description of its technology and system design in order to demonstrate that it has the technical qualifications to meet its Stage 2 obligations. The Bureau's guidance is informed by the types of information that applicants submitted in the CAF II Auction and for rural broadband experiment support. These are also the types of information about which the Bureau expects a technically qualified applicant will have made preliminary decisions in order to determine how much support it would need to meet the relevant Stage 2 Competition public interest obligations and to begin planning how it will meet the required service milestones.

57. The Bureau expects an applicant, regardless of the technology (or technologies) it proposes to use, to:

- Describe the proposed last mile architecture(s) and technologies, middle mile/backhaul topology, and the architecture used to provide voice service.
- Describe the network's scalability and features that improve reliability (such as redundancy).
- Indicate whether parts of the network will use the applicant's or another party's existing network facilities, including non-wireless facilities extending from the network to customers' locations. For non-wireless facilities that do not yet exist, the description should indicate whether the new facilities will be aerial, buried, or underground.
- Provide technical information about the methods, "rules of thumb," and engineering assumptions used to size the capacity of the network's nodes (or gateways) and links. The information provided should demonstrate how the required performance for the relevant performance tier will be achieved during periods of peak usage.
- Provide a project plan that includes a network build-out schedule that includes but is not restricted to plans for construction of last mile and middle mile facilities. The build-out schedule should show the applicant's projected milestones on an annual basis, including achievement of the interim service milestones described in the *PR-USVI Stage 2 Order* and completion of the network by the end of the sixth year of funding authorization. The project plan and included schedule should incorporate detailed information showing how the applicant plans to offer, to all locations in each geographic area, voice and broadband service meeting the relevant performance requirements when the system is complete. The project plan and included schedule should also incorporate the applicant's plans for monitoring and maintaining the performance of the service for the duration of the 10-year support term.

58. The network diagram, which must be certified by a professional engineer, should:

- Identify all wireline and wireless segments of the proposed networks.
- Uniquely identify (i) major network nodes including their manufacturer and model, as well as their functions, locations, and throughput/capacity; (ii) access nodes or gateways, including their

technology, manufacturer and model, location, and throughput/capacity; and (iii) major inter-nodal links (not last mile), and their throughput/capacity.

- Indicate how many locations will be offered service from each access node or from each gateway, and which performance tier or tiers will be supported at each access node.
- Indicate what parts of the network will be new deployment and what parts will use the applicant's or another party's existing network facilities.
- Identify specialized nodes used in providing voice service.
- Explain how nodes or gateways are connected to the Internet backbone and Public Switched Telephone Network.

59. Additionally, an applicant that proposes to use terrestrial fixed wireless technologies should:

- Explain, with technical detail, how the proposed spectrum can meet or exceed the relevant performance requirements at peak usage periods.
- Provide the calculations used, for each performance tier and frequency band, to design the last mile link budgets in both the upload and download directions at the cell edge, using the technical specifications of the expected base station and customer premise equipment.
- Provide coverage maps for the planned and/or existing networks that will be used to meet the Stage 2 public interest obligations, indicating where the upload and download speeds will meet or exceed the relevant performance tier speed(s). The coverage maps should be provided for each interim and final service milestone and should display the required service areas and target locations (or a representation thereof).
- Describe the underlying propagation model used to prepare the coverage maps and how the model incorporates the operating spectrum, antenna heights, distances, digital elevation, and clutter resolutions.
- Describe, for each relevant performance tier and latency combination, the base station equipment that the applicant plans to use.

- Describe the planned customer premise equipment configuration.

60. Additionally, an applicant that proposes to use primarily satellite technologies should:

- Describe how many satellites that are in view simultaneously from any specific location will be required to meet the relevant Stage 2 public interest obligations.
- Describe how many uplink and downlink gateway antenna beams will be required on each satellite, and the capacity of each beam in megabits per second.
- Describe how many uplink and downlink user antenna beams will be required on each satellite, and the capacity of each beam in megabits per second.
- Describe how the gateway capacity is connected to user beams on the satellite, in terms of beams and data capacity per beam.
- Describe whether the capacity on the uplink and downlink beams would be able to be reallocated once a satellite commences operation, if the subscription rate is less in one beam but than in another beam.

61. An applicant must submit with its application a letter from a bank acceptable to the Commission, as set forth in § 54.1508, committing to issue an irrevocable stand-by letter of credit, in the required form, to the applicant. The letter must, at a minimum, provide the dollar amount of the letter of credit and the issuing bank's agreement to follow the terms and conditions of the Commission's model letter of credit, attached hereto as Appendix B of the Public Notice. The Bureau will treat this letter as confidential trade secrets and/or commercial information and thus withhold it from routine public inspection.

62. Each applicant has sole responsibility for investigating and evaluating all technical and marketplace factors that may have a bearing on the amount of Stage 2 support it will seek in its application. Each qualified applicant is responsible for certifying that, if it becomes a winning applicant and is ultimately authorized to receive Stage 2 support, it will be able to build and operate facilities in accordance with the Stage 2 obligations and the Commission's rules generally.

63. Applicants should be aware that the Stage 2 Competition represents an opportunity to apply for Stage 2 support, subject to certain conditions and regulations. The Stage 2 Competition does

not constitute an endorsement by the Bureau or Commission of any particular service, technology, or product, nor does the award of Stage 2 support constitute a guarantee of business success.

64. An applicant should perform its due diligence research and analysis before proceeding, as it would with any new business venture. In particular, the Bureau strongly encourages each applicant to review all underlying Commission orders and to assess all pertinent economic factors relating to the deployment of service in a particular area.

65. Each applicant should perform technical analyses or refresh its previous analyses to assure itself that, should it become authorized to receive Stage 2 support, it will be able to build and operate facilities that fully comply with all applicable technical and legal requirements and will advertise and provide the service to customers. Each applicant should verify the number of actual locations within the geographic areas that it proposes to serve in its application. Each Stage 2 support recipient will be required to offer service meeting the relevant requirements to all locations across all the winning areas where it is authorized to receive support. The Bureau provided location counts in the Stage 2 Reserve Price Public Notice, released on December 19, 2019. As described in this document and in the following, the Commission has adopted a process by which support recipients that cannot identify all locations can demonstrate that the number of actual, on-the-ground locations is lower than the number estimated by the CAM. Such a demonstration must be made within one year after the release of the Stage 2 Competition public notice announcing the winners and will be subject to review by the Bureau following comment by relevant stakeholders and potentially an audit. Applicants' due diligence should be informed by the availability of and requirements for this process, in addition to other factors.

66. The Bureau also reminds each applicant that pending and future judicial proceedings, as well as certain pending and future proceedings before the Commission—including applications, applications for modification, notices of proposed rulemaking, notices of inquiry, petitions for rulemaking, requests for special temporary authority, waiver requests, petitions to deny, petitions for reconsideration, informal objections, and applications for review—may relate to or affect licensees or applicants for support in the Stage 2 Competition. Each applicant is responsible for assessing the likelihood of the various possible outcomes and for considering the potential impact on Stage 2 support

available through this competition. The due diligence considerations mentioned in this Public Notice do not comprise an exhaustive list of steps that should be undertaken prior to participating in this competition. As always, the burden is on the applicant to determine how much research to undertake, depending upon specific facts and circumstances related to its interests.

67. Each applicant is solely responsible for identifying associated risks and for investigating and evaluating the degree to which such matters may affect its ability to apply for or otherwise receive Stage 2 support. Each applicant is responsible for undertaking research to ensure that any support won in this competition will be suitable for its business plans and needs. Each applicant must undertake its own assessment of the relevance and importance of information gathered as part of its due diligence efforts.

68. The Bureau makes no representations or guarantees regarding the accuracy or completeness of information in the Commission's databases or any third-party databases, including, for example, court docketing systems. To the extent the Commission's databases may not include all information deemed necessary or desirable by an applicant, an applicant must obtain or verify such information from independent sources or assume the risk of any incompleteness or inaccuracy in said databases. Furthermore, the Bureau makes no representations or guarantees regarding the accuracy or completeness of information that has been provided by incumbent licensees and incorporated into the Commission's databases.

69. To confirm an applicant's understanding of its obligations, the Bureau requires each applicant to certify under penalty of perjury in its application that:

The applicant acknowledges that it has sole responsibility for investigating and evaluating all technical, marketplace, and regulatory factors that may have a bearing on the level of Uniendo a Puerto Rico Fund or Connect USVI Fund Stage 2 Fixed high-cost support it submits in its application, and that, if the applicant wins support, it will be able to build and operate facilities in accordance with the Uniendo a Puerto Rico Fund or Connect USVI Fund Stage 2 obligations and the Commission's rules generally.

70. This certification will help ensure that an applicant acknowledges and accepts responsibility for its application and any forfeitures imposed in the event of default, and that it will not

attempt to place responsibility for the consequences of its activity in this process on either the Commission or any of its contractors.

71. An applicant must acknowledge in its application that it must be designated as an ETC for the areas in which it will receive support prior to being authorized to receive support. Only ETCs designated pursuant to section 214(e) of the Communications Act of 1934, as amended (the Act) “shall be eligible to receive specific Federal universal service support.” Section 214(e)(2) gives states the primary responsibility for ETC designation. However, section 214(e)(6) provides that this Commission is responsible for processing requests for ETC designation when the service provider is not subject to the jurisdiction of any state commission. Support is disbursed only after the provider receives an ETC designation and satisfies the requirements.

72. The Commission decided that an applicant need not be an ETC as of the application filing deadline for the Stage 2 Competition, but that it must obtain a high-cost ETC designation for the areas covered by its winning applications within 60 days after being announced as a winning applicant.

73. Absent a waiver, an applicant that fails to obtain the necessary ETC designations by that deadline will be subject to a forfeiture as described in the following, and will not be authorized to receive Stage 2 support. In addition to all the requirements for participating in the Stage 2 Competition, each applicant should be familiar with the requirements of a high-cost ETC. For example, all high-cost ETCs are required to offer Lifeline voice and broadband service to qualifying low-income consumers pursuant to the Lifeline program rules. Moreover, when the requirement has been fully implemented, each Stage 2 support recipient will be required to bid on Category One telecommunications and Internet access services in response to a posted FCC Form 470 seeking broadband service that meets the connectivity targets for the Schools and Libraries universal service support program (E-rate) for eligible schools and libraries located within any area in a census block where the ETC is receiving Stage 2 support. A high-cost ETC may also be subject to state-specific requirements imposed by the state that designates it as an ETC.

74. An applicant is required to submit with its application a Disaster Preparation and Response Plan (DPRP), which will be reviewed by the Bureau for completeness. The DPRP should, at a

minimum, address in detail how an applicant intends to prepare for and respond to disasters in Puerto Rico and/or the U.S. Virgin Islands according to five criteria: (1) Strengthening Infrastructure; (2) Ensuring Network Diversity; (3) Ensuring Backup Power; (4) Network Monitoring; and (5) Emergency Preparedness. The detailed DPRP must include, for each criterion:

- a description of your commitments to maintain, improve or modify your facilities based on reasonably-selected best practices, checklists and industry standards;
- commitments that are auditable and your agreement to be subject to reasonable audit procedures; and
- identification of your employee official(s) responsible for management and compliance.

For each criterion, the Bureau has provided example best practices, checklists, and/or standards in Appendix C of the Public Notice. It may be useful to consider and/or incorporate some or all of these materials in preparing the DPRP; however, the Bureau does not endorse any of the specific examples, but rather it simply provides them as examples that may prove useful. The applicant should explain why it believes compliance with any specific standard it identifies will prove adequate to meet the criteria the Bureau sets forth.

75. As directed by the Commission and as part of its review of the application, Bureau staff will review each applicant's DPRP for completeness, and may contact the applicant for further information. The Bureau will provide detailed written notification of the deficiencies, if any, to the carrier and withhold authorization to receive support until the support recipient has cured the deficiencies.

76. Notwithstanding the prohibition against major modifications to an application after the submission deadline, the Bureau will allow an applicant to amend its DPRP submission in order to maintain best practices to prepare for and respond to disasters.

77. A support recipient must certify annually to USAC that it has recently reviewed the DPRP and considered whether any changes or revisions were necessary. A support recipient has the obligation to provide the Bureau with an updated DPRP within 10 days of making any material changes to the DPRP, and for as long as it receives Stage 2 support.



**D. Procedures for Limited Disclosure of Application Information**

78. Consistent with the Commission's practice in the CAF II Auction (Auction 903), Mobility Fund I and Tribal Mobility Fund I (Auctions 901 and 902) and recent spectrum auctions, the Bureau adopts procedures for limiting the application information that will be disclosed to the public.

79. Specifically, the Bureau will withhold from the public and other applicants the application information listed in the following to help ensure anonymous applications and to protect applicants' competitively sensitive information. This Bureau will withhold the application information until at least after the winning applicants have been authorized to receive Stage 2 high-cost support. The application information to be withheld includes, but is not limited to:

- The minimum geographic areas selected by an applicant.
- The performance tier and latency combination(s) selected by an applicant and the associated weight for each combination.
- The applicant's price percentage(s).
- The spectrum access description.
- An applicant's responses to the questions in this Public Notice and any supporting documentation submitted in any attachment(s) that are intended to demonstrate an applicant's ability to meet the public interest obligations for each performance tier and latency combination that the applicant has selected in its application.
- Any financial information contained in an applicant's Stage 2 application for which the applicant has requested confidential treatment under the abbreviated process in § 0.459(a)(4) of the Commission's rules.
- An applicant's letter of interest from a qualified bank that the bank would provide a letter of credit to the applicant.
- The applicant's DPRP.

80. Unlike the typical § 0.459 process, which requires that an applicant submit a statement of the reasons for withholding the information for which confidential treatment is sought from public inspection, an applicant that seeks confidential treatment of the financial information contained in its

application need not submit a statement that conforms with the requirements of § 0.459(b) unless and until its request for confidential treatment is challenged. Because the Bureau has found in other contexts that financial information that is not otherwise publicly available could be competitively sensitive, it permits applicants seeking confidential treatment of financial information to use this abbreviated process.

81. The § 0.459(a)(4) abbreviated process for requesting confidential treatment may *not* be used by an applicant to request confidential treatment of any information in its application other than its financial information. Thus, an applicant that wishes to seek confidential treatment of any other portion(s) of its application must file a regular § 0.459 request for confidential treatment of any such information with its application (other than responses to the questions in the Public Notice and associated supporting documentation that the Bureau presumes to be competitively sensitive). This request must include a statement of the reasons for withholding those portions of the application from public inspection. Additionally, in the event an applicant's abbreviated request for confidential treatment of the financial information contained in its application is challenged, the applicant must submit a request for confidential treatment of its financial information that conforms with the requirements of § 0.459 within 10 business days after receiving notice of the challenge.

82. After the winning applicant(s) is authorized to receive Stage 2 fixed support, the Bureau no longer has a need to preserve the confidentiality of the contents of applications. Accordingly, the Bureau will make publicly available all application information, except for an applicant's operational information (including its DPRP), letter of interest, and confidential financial information. This approach is consistent with the Bureau's interest in a transparent competition process and the Commission's recent practices in the CAF II Auction 903, Mobility Fund Phase I competition and the Commission's typical spectrum competitions.

#### **E. Prohibited Communications and Compliance with Antitrust Laws**

83. To help protect competition during the Stage 2 Competition, the Bureau incorporates into this process the Commission's rules prohibiting an applicant from communicating certain proposal-related information to another applicant from the application filing deadline until awards are announced. More specifically, § 1.21002 of the Commission's rules prohibits an applicant from cooperating or

collaborating with any other applicant with respect to its own, or one another's, or any other competing applicant's applications or application strategies, and from communicating with any other applicant in any manner the substance of its own, or one another's, or any other competing applicant's applications or application strategies during the prohibition period. The rule provides an exception for communications between applicants if those applicants identify each other on their respective applications as members of a joint application arrangement and certify that the application identifies all real parties in interest to agreements related to the applicant's participation in the competition. Consistent with the Commission's direction in the *PR-USVI Stage 2 Order*, the Bureau applies a prohibition identical to § 1.21002 to the Stage 2 Competition.

84. This section provides guidance on the application of the rule during the Stage 2 Competition. As in past competitions and auctions for support, the targeted restrictions imposed by the rule are necessary to serve the important public interest in a fair and competitive process.

85. *Entities Covered by Communications Prohibition.* Consistent with § 1.21002, the prohibition of certain communications that the Bureau adopts will apply to any party that submits an application to participate in the Stage 2 Competition. **This prohibition applies to all parties that submit an application by the deadline regardless of whether such parties become winning applicants authorized to receive Stage 2 support.**

86. "Applicant" for purposes of this rule includes the entity filing the application, each party capable of controlling the applicant, and each party that may be controlled by the applicant or by a party capable of controlling the applicant.

87. Subject to the exception described in this document, the prohibition applies to communications by an applicant that are conveyed to another applicant. The prohibition of "communicating in any manner" includes public disclosures as well as private communications and indirect or implicit communications, as well as express statements. Consequently, an applicant must take care to determine whether its Stage 2 Competition-related communications may reach another applicant, unless the exception applies.

88. Applicants should take special care in circumstances where their officers, directors, and employees may receive information directly or indirectly relating to any other applicant's Stage 2 applications or application strategies. Information received by a party related to the applicant may be deemed to have been received by the applicant under certain circumstances. For example, Commission staff have found that, where an individual serves as an officer and director for two or more applicants, the applications and application strategies of one applicant are presumed conveyed to the other applicant, and, absent a disclosed agreement that makes the rule's exception applicable, the shared officer creates an apparent violation of the rule.

89. *Prohibition Applies Until Deadline.* Consistent with § 1.21002, the prohibition of certain communications begins at the application filing deadline and ends when the winning applicants are authorized to receive Stage 2 support.

90. *Prohibited Communications.* Consistent with § 1.21002 as applied to this Stage 2 Competition, the rule prohibits an applicant from communicating with another applicant only with respect to "its own, or one another's, or any other competing applicant's application or application strategies." Thus, the prohibition does not apply to all communications between or among applicants; it applies to any communication conveying, in whole or part, directly or indirectly, the applicant's or a competing applicant's "application or application strategies."

91. All applicants seeking support in the competitive proposal process are "competing applicants" under the rule. Parties apply to participate in the Stage 2 Competition to obtain support from a fixed budget. As such, applicants are competing with one another regardless of whether each seeks to serve different geographic areas with Stage 2 support.

92. Business discussions and negotiations that are *unrelated* to applications in the Stage 2 Competition and that do not convey information about Stage 2 applications or application strategies are not prohibited by the rule. Moreover, not all competition-related information is covered by the prohibition. For example, communicating merely whether a party has or has not applied to participate in the Stage 2 Competition will not violate the rule. In contrast, communicating how a party is participating, including specific areas and/or tier and latency combinations selected, specific price percentages, and/or

whether or not the party has submitted an application, would convey application strategies and would be prohibited.

93. In the present context, the prohibited communications rule will take effect after applications are due and continue to be in effect until the Bureau announces the winning applicants that are authorized for support. Although there are no subsequent rounds, and applicants may not add or subtract competitive area-specific proposals after that date, it is imperative that an applicant not discuss with any other applicant any aspect of its application and proposals until the winning applicants are authorized for support to comply with the rule. Previously, the Commission has found discussions related to strategic defaults between winning auction bidders after the close of bidding in an auction to violate the prohibited communications rule.

94. While consistent with § 1.21002 the Bureau does not prohibit business discussions and negotiations among applicants that are not competition related, each applicant must remain vigilant not to communicate, directly or indirectly, information that affects, or could affect, applications or application strategy. Certain discussions might touch upon subject matters that could convey cost information and application strategies. Such subject areas include, but are not limited to, management, sales, local marketing agreements, and other transactional agreements.

95. The Bureau cautions applicants that applications or application strategies may be communicated outside of situations that involve one party subject to the prohibition communicating privately and directly with another such party.

96. Applicants should use caution in their dealings with other parties, such as members of the press, financial analysts, or others who might become conduits for prohibited communication of application information. For example, even though communicating that it has applied to participate in the competition will not violate the rule, an applicant's statement to the press about the details of its application or proposal in the competition could give rise to a finding of a violation of the prohibition on certain communications that the Bureau adopts.

97. *Communicating with Third Parties.* Consistent with § 1.21002, the Bureau does not prohibit an applicant from communicating application or application strategies to a third party, such as a

consultant or consulting firm, counsel, or lender, provided that the applicant takes appropriate steps to ensure that the third party does not become a conduit for prohibited communications to other applicants, unless both applicants are parties to a joint application arrangement disclosed on their respective applications. For example, an applicant might require a third party, such as a lender, to sign a non-disclosure agreement before the applicant communicates any information regarding application or application strategy to the third party. Within third-party firms, separate individual employees, such as attorneys or competition consultants, may advise individual applicants on application or application strategies, as long as such firms implement firewalls and other compliance procedures that prevent such individuals from communicating the application or application strategies of one applicant to other individuals representing separate applicants. Although firewalls and/or other procedures should be used, their existence is not an absolute defense to liability if a violation of the rule has occurred.

98. As the Commission has previously explained, in the case of an individual, the objective precautionary measure of a firewall is not available. As a result, an individual that is privy to bids or bidding information of more than one applicant presents a greater risk of engaging in a prohibited communication. The Bureau will take the same approach to interpreting the prohibited communications rule in the Stage 2 Competition. The Bureau emphasizes that whether a prohibited communication has taken place in a given case will depend on all the facts pertaining to the case, including who possessed what information, what information was conveyed to whom, and the status of the competition.

99. The Bureau reminds potential applicants that they may discuss the application or proposals for specific geographic areas with the counsel, consultant, or expert of their choice *before* the application deadline. Furthermore, the same third-party individual could continue to give advice after the deadline regarding the application, provided that no information pertaining to application or application strategies is conveyed to that individual.

100. *Certification.* By submitting an application, each applicant in the Stage 2 Competition certifies its compliance with the prohibition on certain communications that the Bureau adopts, consistent with the Commission's direction in the *PR-USVI Stage 2 Order*. In particular, an applicant must certify under penalty of perjury that the application discloses all real parties in interest to any agreements

involving the applicant's participation in the applying for Stage 2 support. Also, the applicant must certify that it and all applicable parties have complied with and will continue to comply with the prohibition the Bureau adopts, which is identical to 47 CFR 1.21002.

101. The Bureau cautions, however, that merely filing a certifying statement as part of an application will not outweigh specific evidence that a prohibited communication has occurred, nor will it preclude the initiation of an investigation when warranted. The Commission has stated that it "intend[s] to scrutinize carefully any instances in which applying patterns suggest that collusion may be occurring." Any applicant found to have violated the prohibition on certain communications may be subject to sanctions.

102. *Duty to Report Prohibited Communications.* Consistent with § 1.21002(c), the Bureau requires that any applicant that makes or receives a communication that appears to violate the prohibition on certain communications that it adopts must report such communication in writing to the Commission immediately, and in no case later than five business days after the communication occurs. An applicant's obligation to make such a report continues until the report has been made.

103. In addition, § 1.65 of the Commission's rules requires an applicant to maintain the accuracy and completeness of information furnished in its pending application and to notify the Commission of any substantial change that may be of decisional significance to that application. Thus, § 1.65 requires a Stage 2 Competition applicant to notify the Commission of any substantial change to the information or certifications included in its pending application. An applicant is therefore required by § 1.65 to report to the Commission any communication the applicant has made to or received from another applicant after the application filing deadline that affects or has the potential to affect its application or application strategy, unless such communication is made to or received from an applicant that is a member of a joint application arrangement identified on the application.

104. Sections 1.65(a) and 1.21002 of the Commission's rules require each applicant in competitive proceedings to furnish additional or corrected information within five days of a significant occurrence, or to amend its application no more than five days after the applicant becomes aware of the need for amendment. These rules are intended to facilitate the competition process by making

information that should be publicly available promptly accessible to all participants and to enable the Bureau to act expeditiously on those changes when such action is necessary. For the avoidance of doubt, the Bureau applies the same requirement here.

105. *Procedure for Reporting Prohibited Communications.* A party reporting any prohibited communication pursuant to § 1.65 or the prohibition the Bureau adopts here (i.e., a communication that would be prohibited by § 1.21001(b), or § 1.21002(c)) must take care to ensure that any report of the prohibited communication does not itself give rise to a violation of the communications prohibition the Bureau adopts. For example, a party's report of a prohibited communication could violate the rule by communicating prohibited information to other applicants through the use of Commission filing procedures that allow such materials to be made available for public inspection.

106. Parties must file only a single report concerning a prohibited communication and must file that report with the Commission personnel expressly charged with administering the Commission's competitions. This rule is designed to minimize the risk of inadvertent dissemination of information in such reports. Any required reports must be filed consistent with the instructions set forth in this Public Notice. For the Stage 2 Competition, such reports must be filed with Ryan Palmer, the Chief of the Telecommunications Access Policy Division, Wireline Competition Bureau, by the most expeditious means available. Any such report should be submitted by email to Mr. Palmer at the following email address: [ConnectAmerica@fcc.gov](mailto:ConnectAmerica@fcc.gov). If you choose instead to submit a report in hard copy, any such report must be delivered only to: Ryan Palmer, Chief, Telecommunications Access Policy Division, Wireline Competition Bureau, Federal Communications Commission, 445 12<sup>th</sup> Street, SW, Room 5-A426, Washington, DC 20554.

107. A party seeking to report such a prohibited communication should consider submitting its report with a request that the report or portions of the submission be withheld from public inspection by following the procedures specified in § 0.459 of the Commission's rules. The Bureau encourages such parties to coordinate with the Telecommunications Access Policy Division staff about the procedures for submitting such reports.



108. *Disclosure of Agreement Terms.* Each applicant may be required to disclose in its application the specific terms, conditions, and parties involved in any agreement into which it has entered. This may apply to an applicant that is a consortia, joint venture, partnership, or agreement, understanding, or other arrangement entered into relating to the Stage 2 competitive proposal process, including any agreement relating to the post-competition market structure. Failure to comply with the Commission's rules can result in enforcement action.

109. *Additional Information Concerning Prohibition of Certain Communications.* The prohibition the Bureau adopts here is consistent with similar rules the Commission has applied in other Commission competitions and auctions. Applicants may gain insight into the public policies underlying § 1.21002 by reviewing information about the application of these other rules. Decisions applying these rules by courts and by the Commission and its Bureau in other Commission competitions can be found at <https://www.fcc.gov/summary-listing-documents-addressing-application-rule-prohibiting-certain-communications>. Applicants utilizing these precedents should keep in mind the specific language of the rule applied in past decisions, as well as any differences in the context.

110. *Antitrust Laws.* Regardless of compliance with the Commission's rules, applicants remain subject to the antitrust laws, which are designed to prevent anticompetitive behavior in the marketplace. Compliance with the disclosure of prohibited communications pursuant to the rules the Bureau adopts in the Public Notice will not insulate a party from enforcement of the antitrust laws. For instance, a violation of the antitrust laws could arise out of actions taking place well before the application filing deadline, when the prohibited communications rule takes effect. The Commission has cited a number of examples of potentially anticompetitive actions that would be prohibited under antitrust laws: for example, actual or potential competitors may not agree to divide territories in order to minimize competition, regardless of whether they split a market in which they both do business, or whether they merely reserve one market for one and another market for the other. Similarly, Commission staff have previously reminded potential applicants and others that "[e]ven where the applicant discloses parties with whom it has reached an agreement on the application... the applicant is nevertheless subject to existing antitrust laws."

111. To the extent the Commission becomes aware of specific allegations that suggest that violations of the federal antitrust laws may have occurred, the Commission may refer such allegations to the United States Department of Justice for investigation. If an applicant is found to have violated the antitrust laws or the Commission's rules in connection with its participation in the Stage 2 Competition application process, it may be subject to a forfeiture and may be prohibited from participating further in the Stage 2 Competition and in future competitions and auctions, among other sanctions.

**F. Red Light Rule**

112. The Commission has adopted rules, including a provision referred to as the "red light rule," that implement the Commission's obligation under the Debt Collection Improvement Act of 1996, which governs the collection of debts owed to the United States, including debts owed to the Commission. Under the red light rule, applications and other requests for benefits filed by parties that have outstanding debts owed to the Commission will not be processed. Applicants seeking to participate in the Stage 2 Competition are subject to the Commission's red light rule. Pursuant to the red light rule, unless otherwise expressly provided for, the Commission will withhold action on an application by any entity found to be delinquent in its debt to the Commission.

113. Specifically, a red-lighted applicant seeking to participate in the Stage 2 Competition must pay any debt(s) associated with the red light prior to filing its application. If an applicant has not resolved its red light issue(s) prior to filing, its application will be deemed incomplete. Bureau staff will not process the applicant's Stage 2 application, and the applicant will be deemed not qualified to apply for Stage 2 support.

114. Potential applicants for the Stage 2 Competition should review their own records, as well as the Commission's Red Light Display System (RLD), to determine whether they owe any non-tax debt to the Commission and should try to resolve and pay any outstanding debt(s) prior to submitting a application. The RLD enables a party to check the status of its account by individual FCC Registration Numbers (FRNs) and links other FRNs sharing the same Tax Identification Number (TIN) when determining whether there are outstanding delinquent debts. The RLD is available at

<http://www.fcc.gov/redlight/>. Additional information is available at [https://www.fcc.gov/debt\\_collection/](https://www.fcc.gov/debt_collection/).

115. Additionally, the Bureau recognizes that a Stage 2 Competition applicant may incur debt to the Commission after it files its application and may fail to pay that debt when due. An applicant should note that the Commission will conduct additional red light checks prior to authorizing Stage 2 support. The Bureau therefore encourages qualified applicants to continue to review their own records as well as the RLD periodically during the Stage 2 Competition and to resolve and pay all outstanding debts to the Commission as soon as possible. The Commission will not authorize any winning applicant to receive Stage 2 support until its red light issues have been resolved.

#### **G. USF Debarment**

116. The Commission's rules provide for the debarment of those convicted of or found civilly liable for defrauding the high-cost support program. Stage 2 Competition applicants are reminded that those rules apply with equal force to the Stage 2 Competition.

### **III. EVALUATING STAGE 2 COMPETITION APPLICATIONS AND PROPOSALS**

#### **A. Evaluation of Applications**

117. *Evaluation Process Overview.* The Bureau strongly encourages each applicant to carefully review its entire application, including specific proposals for each geographic area, for completeness and accuracy. Following an application's submission to the Commission, an applicant is not afforded any opportunity to cure deficiencies or make major modifications to its competitive proposal that may affect Commission staff's ultimate scoring of proposals. However, the Bureau may request additional information from applicants to facilitate its review of underlying applications.

118. Once the deadline to submit an application has passed, Bureau staff will determine whether each applicant has complied with the application requirements and provided all information concerning its competitive proposal(s). The Bureau will issue a public notice with each applicant's proposal status identifying (1) those that are complete and (2) those that are incomplete or deficient. Eligible applicants that submit complete proposals will be reviewed as part of the Stage 2 Competition for the Territories consistent with the methodology prescribed by the *PR-USVI Stage 2 Order*.

119. The Bureau will select only one winner per geographic area in the Territories. The Bureau staff will score the applications using at least two independent reviewers for each application who will not communicate about the contents or merits of the applications prior to issuing a final score. Each reviewer will score separately, and the final overall score for each competitive proposal will be the average score of the proposal based on all scores from reviewers. There will be no public comment period on competitive proposals submitted in the Stage 2 Competition.

120. *Overall Scoring and Weighting.* Bureau staff will apply three objective factors in scoring and selecting winning applicants based upon information provided in each applicant's competitive proposal for a specific geographic area: (1) price per location; (2) network performance, including speed, latency, and usage allowance; and (3) network resilience and redundancy. For administrative simplicity in evaluating comprehensive proposals, applicants shall provide this information in a Microsoft Excel or Access format using Schedule B to the Application Form for each geographic area it seeks Stage 2 support.

121. Bureau staff will evaluate each geographic area contained in an applicant's competitive proposal based on a 270-point scale, as shown in the table in the following and allocated as follows: 100 points for price per location, 90 points for network performance, and 80 points for network resilience and redundancy. An applicant will be assigned a specific point value in each category, and it will receive a final overall score, calculated as the average of all scores from Commission staff for each geographic area for which it seeks support. Price per location will be given the greatest weight; however, a proposal for a network with top-notch performance and resilience and redundancy can prevail over a proposal for a less expensive but less robust and resilient network to encourage applicants to deploy high-performing, storm-hardened networks. The applicant with the lowest final overall point score out of a total of 270 possible points for a geographic area will win support for that area. In the event of a tied score for a geographic area, the Bureau will select the competitive proposal with the lowest price per location.

**Table 1 — Overall Scoring**

<b>Overall Scoring</b>	<b>Points</b>
Price Per Location	100
Network Performance	90
Network Resilience and Redundancy	80
<b>Total</b>	<b>270</b>

122. *Price Per Location.* The Bureau will use the Proposal Price submitted by applicants in their Application Form to determine their scores for price per location. The reserve price for each geographic area is the maximum amount that an applicant may commit to accept in its proposal. An applicant who proposes to accept the reserve price for a geographic area will receive the highest score of 100 points for price per location category. Unlike in the multi-round CAF II reverse auction previously used by the Commission, the competitive process here is only a single round, so applicants must provide their best price possible in the first instance.

123. The Bureau will subtract one point from the high score of 100 for each percentage point the Proposal Price is below the reserve price, as shown in the Table 2 herein. Applicants may submit a Proposal Price below the reserve price to the nearest hundredth of one percent. In such cases, the Bureau will round the percentage to the nearest whole percentage for the purpose of scoring. In the event two applicants have equal overall final scores, the applicant with the lowest Proposal Price will be selected the winning applicant. For example, if an applicant commits to a Proposal Price that is 10.55 percent less than the reserve price, the applicant will receive an 11-point reduction from the possible 100 points. In the event a second applicant submits a Proposal Price for the same geographic area that is 10.75 percent less than the reserve price, thereby also receiving an 11-point reduction, and has the same point total as the first applicant in every other respect, this later applicant would be the winning bidder because its Proposal Price would be less than the former applicant, assuming the final overall score for both

applicants' proposals were equal. Thus, this single-round competitive process rewards applicants to reveal their best price to increase the likelihood of being the winning applicant.

**Table 2 — Price Per Location Scoring**

Price	Assigned Points
Reserve Price	100
1%-100% Below Reserve Price	-1 point for each percentage below reserve

124. *Network Performance.* In the *PR-USVI Stage 2 Order* the Commission established three tiers for a combination of network speed and usage allowances, and two tiers for network latency, as reflected in Table 3 in the following. The Bureau requires applicants to commit to the deployment of a network capable of providing a minimum upload and download speeds of at least 25/3 Mbps with at least 200 gigabytes (GB) of monthly data usage or a usage allowance that reflects the average usage of a majority of fixed broadband customers, using Measuring Broadband America data or a similar data source, whichever is greater. For each geographic area the applicant seeks support, the applicant specifies the specific speed, usage, and latency in Schedule B of the Application Form. The Bureau does not require an applicant to propose the same network performance measures for each geographic area it proposes to provide voice and broadband service in the territory.

125. Applicants that propose to meet these minimum network speed and usage requirements will be assigned the maximum 50 points allotted for this category.

126. To promote the deployment of advanced networks and access to quality services, the Bureau provides point reductions only by meeting specific performance metrics. Applicants will be given a points reduction if its proposed network speed and data usage is greater than or equal to speeds of 100/20 Mbps and greater than or equal to 2 TB of monthly data usage. Staff will assign 25 points out of a possible 50 points to applicants that commit to deploy networks meeting or exceeding these specified speeds and minimum data usage. And staff will assign zero points only if an applicant's proposal meets or exceeds speeds of 1 Gbps/500 Mbps with at least 2TB for monthly usage allowance. Unlike the price

per location category, applicants do not receive incremental decreases in assigned points for increases in speed or monthly data usage allowance that are less than those specified for the next performance tier.

127. All applicants must provide services with a maximum roundtrip broadband and voice latency of  $\leq 750$  milliseconds (ms) or less, but the Bureau will give preference to applicants with low-latency broadband and voice at or below 100 ms as shown in Table 4 herein. Staff will assign high-latency commitments the full 40 points for this category and assign zero points for a proposal with low-latency. Similar to speed and usage, applicants do not receive incremental point reductions for latency performance that are between 750 ms and 100 ms.

**Table 3 — Network Performance Scoring (1 of 2) — Speed/Usage**

Speed	Monthly Usage Allowance	Assigned Points
$\geq 25/3$ Mbps	$\geq 200$ GB or U.S. median, whichever is higher	50
$\geq 100/20$ Mbps	$\geq 2$ TB	25
1 Gbps/500 Mbps	$\geq 2$ TB	0

**Table 4 — Network Performance Scoring (2 of 2) — Latency**

Latency	Requirement	Assigned Points
Low	$\leq 100$ ms	0
High	$\leq 750$ ms	40

128. *Network Resiliency and Redundancy.* Bureau staff will evaluate resiliency and redundancy by assigning points for a few key, objective criteria specified in Schedule B of the Application Form. Bureau staff will award a points preference based on the level of resilience an applicant proposes to build into its network and/or the redundancy or diversity it proposes to create in its network as measured in network miles.

129. Applicants must provide data concerning its proposed network for each geographic area for evaluation and scoring. Applicants must provide the total network miles within the geographic area. Applicants must further provide the amount of its total network miles that consists of buried fiber, aerial fiber using standard poles, aerial fiber using composite high-wind rated poles, and fixed wireless technology. An applicant will receive a score for network resilience based on the percentage of these technologies, as measured by network miles, that comprise the entire network within the geographic area. The Bureau assigns the full 60 points for this category to a network comprised entirely of aerial fiber using standard poles, and provide the greatest preference, with least amount of points, to an all-buried fiber network. Bureau staff will assign as few as zero points for a network resiliency solution that relies on all-buried fiber.

130. Finally, Bureau staff will assign up to 20 points depending on whether an applicant proposes a redundancy solution that includes a backup network or path diversity. Network diversity means maintaining a separate communications network that can provide services should the first type fail. Path diversity means that there is an alternate route to achieving communications within the network. Specifically, staff will assign no points for a proposal that includes either a backup network or path redundancy, and staff will assign 20 points to a proposal that includes neither a backup network or path redundancy. Applicants must specify the amount of network miles within the geographic area that include a backup network, path diversity, or both. Bureau staff will not deduct points for satellite providers for redundancy simply based on the availability of a backup satellite path. Satellite providers will receive a reduction in points based on the percentage of locations that it intends to reach with a backup network. Although scoring will equally reward a carrier for building in either network or path diversity, the Bureau encourages carriers to build both into their network wherever possible as a best practice for building a storm-hardened network.



**Table 5 — Network Resilience and Redundancy Scoring**

<b>Network Resilience and Redundancy Measures</b>	<b>Assigned Points</b>
Aerial wireline deployment	60
Satellite; fixed wireless end user location connection; microwave backhaul; aerial wireline deployment using high-wind rated composite poles	40-60 sliding scale
Underground fiber	0-60 sliding scale
Backup network/path diversity	0-20 sliding scale

**B. Confidentiality and Availability of Competition Information**

131. Applicants may request confidential treatment of application information pursuant to the normal or abbreviated § 0.459 processes detailed in the public notice. For a typical request for confidential treatment, an applicant must submit a statement of the reasons for withholding information from public inspection. An applicant that seeks confidential treatment of financial information contained in its application need not submit a statement that conforms with the requirements of § 0.459(b) unless and until its request for confidential treatment is challenged. Notwithstanding an applicant's request for confidential treatment, the Bureau will withhold from public inspection certain application information until at least after the winning applicants have been authorized to receive support.

**C. Default Payment Requirements**

132. *Forfeiture.* Any Stage 2 Competition winning applicant will be subject to a forfeiture in the event of a default before it is authorized to begin receiving support. A winning applicant will be considered in default and will be subject to forfeiture if it fails to meet the document submission deadlines, is found ineligible or unqualified to receive Stage 2 support by the Bureau, and/or otherwise defaults on its winning applications or is disqualified for any reason prior to the authorization of support. Any such determination by the Bureau shall be final, and a winning applicant shall have no opportunity to

cure through additional submissions, negotiations, or otherwise. Agreeing to such payment in the event of a default is a condition for participating in application in the Stage 2 Competition.

133. The Commission established a base forfeiture of \$3,000 per census block group within a geographic area for any applicant that (i) fails to meet the document submission deadlines, (ii) is found ineligible or unqualified to receive support by the Bureau, or (iii) otherwise defaults on its bid or was disqualified for any reason prior to receiving authorization for support. The forfeiture amount resulting from an applicant's default prior to receiving authorization for support will be subject to adjustment based on the criteria set forth in the Commission's forfeiture guidelines.

134. A winning applicant will be subject to the base forfeiture for each separate violation of the Commission's rules. The Commission defined a violation as any form of default with respect to the geographic area. In other words, there shall be separate violations for each winning geographic area in an application. To ensure that the amount of the base forfeiture is not disproportionate to the amount of a winning applicant's application, the Commission decided to limit the total base forfeiture to five percent of the applicant's total assigned support for the application for the support term.

135. In the event of default, the Bureau will notify and identify the next-in-line applicant as the new winning applicant. The new winning applicant will have all the same obligations for submitting additional information and filings and obligations as did the initial winning applicant.

136. *Non-Compliance Measures Post-Authorization.* An applicant that has received notice from the Commission that it is authorized to receive Stage 2 support will be subject to non-compliance measures if it fails or is unable to meet its minimum coverage requirement, other service requirements, or fails to fulfill any other term or condition of Stage 2 support. As described in the *PR-USVI Stage 2 Order*, these measures will scale with the extent of non-compliance, and include additional reporting, withholding of support, support recovery, and drawing on the support recipient's letter of credit if the support recipient cannot pay back the relevant support by the applicable deadline. A support recipient may also be subject to other sanctions for non-compliance with the terms and conditions of Stage 2 support, including, but not limited to, potential revocation of ETC designations and suspension or debarment. Additionally, a support recipient will be subject to any non-compliance measures in

conjunction with a methodology for high-cost support recipients to measure and report speed and latency performance to fixed locations.

**D. Closing Conditions**

137. The Stage 2 Competition window for applicants will close on a date to be announced by the Bureau. No further applications will be accepted after that time. To avoid concerns related to electronic or technical errors, the Bureau encourages applicants to submit ahead of this time and date. The Bureau will confirm receipt via electronic mail of each application received by the deadline.

**E. Competition Announcements**

138. The Bureau will make announcements as necessary to report or request information from applicants during the Stage 2 Competition. Announcements will be available at the FCC's website.

**F. Competition Results**

139. The Bureaus will determine the winning applicants as described elsewhere in this Public Notice and will announce the results in a public notice. The Bureau will make the final overall application scores for all applicants available for public viewing after winning applicants are authorized to receive support. Winning applicants will then be required to complete the necessary actions described in this Public Notice to become authorized for support.

**IV. POST-COMPETITION PROCEDURES**

**A. Authorization Public Notice**

140. After the Stage 2 Competition has ended, the Bureau will issue a public notice declaring the competition closed, identifying the winning applicants, and establishing the deadline for submission of further information for authorizing support. Winning applicants will file the information using ECFS and e-mail to the Bureau. Details regarding the submission requirements will be provided in the public notice. After the information has been reviewed and is considered to be complete, including the Disaster Preparation and Response Plan, and the winning applicant has submitted an acceptable letter of credit and accompanying Bankruptcy Code opinion letter as described in the following, a public notice will be released authorizing the winning applicant to receive Stage 2 support.

**B. Eligible Telecommunications Carrier Designation and Certification**

141. Within 60 days after the release of the winning applicants public notice, a winning applicant is required to submit appropriate documentation of its high-cost ETC designation in all the areas for which it will receive support. Appropriate documentation should include the original designation order, any relevant modifications, e.g., expansion of service area or inclusion of wireless, along with any name-change orders. An applicant is also required to provide documentation showing that the designated areas (e.g., census blocks, wire centers, etc.) cover the relevant winning application areas so that it is clear that the winning applicant has high-cost ETC status in each winning application area. Such documentation could include maps of the applicant's ETC designation area, map overlays of the winning application areas, and/or charts listing designated areas. Additionally, an applicant is required to submit a letter with its documentation from an officer of the company certifying that the applicant's ETC designation for each state covers the relevant areas where the applicant will receive support.

**C. Letter of Credit and Bankruptcy Code Opinion Letter**

142. After an application has been reviewed and is considered to be complete, the Commission will issue a public notice identifying each winning applicant that may be authorized to receive Stage 2 support. No later than 10 business days after the release of the public notice, an applicant must obtain an irrevocable standby letter of credit at the value specified in § 54.1508(b) from a bank acceptable to the Commission as set forth in § 54.1508(c) for each territory where the applicant is seeking to be authorized. The letter of credit must be issued in substantially the same form as set forth in the model letter of credit provided in Appendix B of the Public Notice.

143. In addition, a winning applicant will be required to provide with the letter of credit an opinion letter from legal counsel clearly stating, subject only to customary assumptions, limitations, and qualifications, that, in a proceeding under the Bankruptcy Code, the bankruptcy court would not treat the letter of credit or proceeds of the letter of credit as property of the applicant's bankruptcy estate, or the bankruptcy estate of any other applicant-related entity requesting issuance of the letter of credit, under section 541 of the Bankruptcy Code.

144. *New and Renewed Letter of Credit.* A winning application receiving Stage 2 support may obtain a new or renewed Letter of Credit after successfully achieving its deployment milestones. When a winning applicant first obtains a letter of credit, it must be at least equal to the amount of the first year of authorized support. Before the winning applicant can receive its next year's support, it must modify, renew, or obtain a new letter of credit to ensure that it is valued at a minimum at the total amount of money that has already been disbursed plus the amount of money that is going to be provided in the next year.

145. The Commission found that, as a recipient makes progress towards building its network, it is appropriate to modestly reduce the value of the letter of credit in an effort to reduce the cost of maintaining a letter of credit as the recipient meets certain service milestones. Specifically, once an entity meets the 60 percent service milestone that entity may obtain a new letter of credit or renew its existing letter of credit so that it is valued at 90 percent of the total support amount already disbursed plus the amount that will be disbursed the next year. Once the entity meets the 80 percent service milestone that entity may obtain a new letter of credit valued at 80 percent of the total support amount already disbursed plus the amount that will be disbursed the next year. The letter of credit must remain open until the recipient has certified it has deployed broadband and voice service meeting the Commission's requirements to 100% of the required number of locations, and USAC has verified that the entity has fully deployed.

#### **D. Location Adjustment Process**

146. *Submission Due Date and Format for Submission.* The Bureau expects the adjustment window to open on or about one year following the notice announcing Stage 2 winning applicants. The Bureau will announce the specific dates of the location adjustment submission filing window and stakeholder comment period in the public notice announcing the winning Stage 2 applicants. By the closing date, if a winning applicant cannot identify actual locations totaling the number announced in the Reserve Price Public Notice on December 19, 2019, it must file its proposed actual location number and all relevant supporting information, including maps, studies, certifications, documents, and any other evidence with the Bureau via electronic mail at [ConnectAmerica@fcc.gov](mailto:ConnectAmerica@fcc.gov). The applicant must include

geolocation data (indicating the latitude/longitude and address) for each actual location it can identify and for each winning area. An applicant must also include a certification for its assertion. The information and evidence submitted will be subject to potential audit.

147. If a winning applicant does not need to adjust its deployment obligation, it must file a certification with the Bureau by the close of the window certifying to that effect and accepting the number of locations the Bureau announced in the Reserve Price Public Notice on December 19, 2019, as its location obligation.

148. *Stakeholder Comment Period.* Following the window closing date, relevant stakeholders will have 30 days to review and comment on the information submitted by the winning applicants. There will be no reply comment period for the winning applicants.

149. *Adjustment Order.* After the comment period is closed, Bureau staff will review all evidence submitted by the support recipients and all relevant comments. The Bureau will then issue an order addressing the recipients' showings, which will establish and announce the final location obligations for each recipient.

#### **E. Five-Year Review**

150. A support recipient may choose to participate in the voluntary five-year review process to reassess its deployment obligations. As directed, the Bureau will release a public notice detailing the five-year review process no later than the beginning of the fifth year of Stage 2 support to provide recipients an opportunity to request reassessment of their deployment obligations. The Bureau expects any request for reassessment will be accompanied by specific information, documents, evidence and data upon which the Bureau can make an informed decision. This reassessment will allow the Bureau to determine whether to adjust any deployment requirements based on newly available data or changed circumstances such as disruptive disasters, altered subscribership or significantly decreased revenue due to population shifts. In the five-year review process public notice, the Bureau will establish a public comment period for any support recipient requesting reassessment, which will allow public review of the documentation, data, and evidence put forward to support the request. Following the close of the public comment period, the Bureau will review and evaluate the record for each requesting support recipient. If,

based on the Bureau's review, an adjustment of deployment obligations or locations is warranted for any winning applicant, the Bureau will announce those changes in a public notice.

**F. Updating the Disaster Preparation and Response Plan**

151. As indicated in this document, a winning applicant has the obligation to provide the Bureau with an updated DPRP within ten business days of making any material change, and for as long as it receives Stage 2 support. The failure to update the DPRP may result in withholding of support or disqualification from future participation in the Commission's competitive competitions.

**G. Mandatory Filing in Disaster Information Reporting System (DIRS)**

152. All Stage 2 support recipients are required to perform DIRS reporting when the system is activated. The Commission will determine whether to activate DIRS in coordination with DHS and FEMA, and will announce the areas that will be covered via public notice and electronic mail. Following normal Commission protocol, the Bureau will continue to activate DIRS and notify providers of its reporting schedule, typically in advance of an expected impending disaster event or immediately after such a disaster. Also pursuant to normal Commission protocol, DIRS reporting obligations begin at the time of DIRS activation, which may be immediately before, at the onset of, or immediately after a disaster event, with reports due each time a provider's restoration status changes. The Bureau notes that support recipients are not required to report daily via DIRS when there is no change in restoration status, and instead are only required to make updates on changes in restoration status when they occur. The only difference from ordinary Commission protocol is that DIRS reporting is mandatory for Stage 2 support recipients for as long as a recipient is receiving Stage 2 support.

153. Stage 2 funding recipients that fail to meet this mandatory DIRS reporting obligation may be subject to penalties and sanctions through the withholding of Stage 2 funds and/or disqualification from participating in future Stage 3 mobile support. However, the Bureau will not impose a penalty or sanctions if reporting deadline(s) cannot be met for reasons reasonably beyond a participant's control (e.g. loss of communications that precludes access to DIRS). In that case, the Bureau requires instead that providers begin and/or resume DIRS reporting according to the reporting schedule as soon as they are reasonably able to do so.

## **V. PROCEDURAL MATTERS**

### **A. Paperwork Reduction Act Analysis**

154. This document implements the information collections adopted in the *PR-USVI Stage 2 Order* and does not contain any additional information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. The Commission is currently seeking PRA approval for information collections related to the PR-USVI Stage 2 Competition application process. Therefore, this document does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198.

### **B. Congressional Review Act**

155. The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs that these rules are “non-major” under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of this Public Notice to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

### **C. Legal Authority**

156. The Bureau establishes procedures for the Stage 2 Competition pursuant to the authority contained in sections 1, 2, 4(i), 214, 254, 303(r), 403, and 405 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 214, 254, 303(r), 403, and 405, and §§ 1.1, 1.3, 1.425 and 1.429 of the Commission’s rules, 47 CFR 1.1, 1.3, 1.425 and 1.429.

### **D. Supplemental Regulatory Flexibility Analysis**

157. In the *PR-USVI Stage 2 Order*, the Commission conducted a Final Regulatory Flexibility Analyses (FRFAs) as required by the Regulatory Flexibility Act of 1980, as amended (RFA). The Bureau anticipated that the Order will not affect a substantial number of carriers and, therefore, certified the Order would not affect a substantial number of small entities.

158. This document establishes procedures for the Connect America Uniendo a Puerto Rico Fund and Connect USVI Fund Stage 2 Competition (PR-USVI Stage 2 Competition or Stage 2



Competition). The procedures established in this document are consistent with the *PR-USVI Stage 2 Order* and FRFA is not required for this document.

## VI. CONTACT INFORMATION

<b>FCC Email &amp; Webpages</b>	ConnectAmerica@fcc.gov  <a href="http://www.fcc.gov">http://www.fcc.gov</a>
<b>General Uniendo a Puerto Rico Fund and Connect USVI Fund Questions</b>	<b>Wireline Competition Bureau</b>  <b>Telecommunications Access Policy Division</b>  Alex Minard  Rebekah Douglas  Dangkhoa Nguyen  (202) 418-0660
<b>Press Information</b>	Office of Media Relations, (202) 418-0500
<b>FCC Forms</b>	(800) 418-3676 (outside Washington, DC)  (202) 418-3676 (in the Washington area)  <a href="http://www.fcc.gov/formpage.html">http://www.fcc.gov/formpage.html</a>
<b>Accessible Formats</b>  Braille, large print, electronic files, or  audio format for people with disabilities	<b>Consumer and Governmental Affairs Bureau</b>  (202) 418-0530 or (202) 418-0432 (TTY)  fcc504@fcc.gov

<p><b>Small Businesses</b></p> <p>Additional information for small and disadvantaged businesses</p>	<p><b>Office of Communications Business Opportunities</b></p> <p>(202) 418-0990</p> <p><a href="http://www.fcc.gov/ocbo/">http://www.fcc.gov/ocbo/</a></p>
---	--

FEDERAL COMMUNICATIONS COMMISSION

Kirk Burgee,  
*Chief of Staff,*  
*Wireline Competition Bureau.*

[FR Doc. 2020-05508 Filed: 3/19/2020 8:45 am; Publication Date: 3/20/2020]